



**WRITTEN STAKEHOLDER SUBMISSION ON THE UNIVERSAL PERIODIC REVIEW PROCESS
LESOTHO**

LESOTHO NATIONAL FEDERATION OF ORGANISATIONS OF THE DISABLED

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1. METHODOLOGY

The methodology used in compiling this report is a combination of desktop research and consultative meetings with Disabled Person's Organisations (DPO) that are affiliates of the LNFOD namely:

1. Lesotho National Association of the Physically Disabled (LNAPD)
2. Intellectual Disability Association of Lesotho (IDAL)
3. Lesotho National League of the Visually Impaired Persons (LNLVIP)
4. National Association of the Deaf Lesotho (NADL)

This process was concluded with a consultative workshop to complement and validate the draft report.

2. CONSTITUTIONAL AND LEGAL FRAMEWORK

Lesotho's Constitution 1993¹ enshrines fundamental human rights and freedoms, amongst them the freedom from discrimination on the basis of race, colour, Sex, language, religion, political or other opinion, national or social origin, property, birth or other status. Disability is not a mentioned ground for discrimination although it may be argued that it falls under the heading of "other status". It is recommended that Lesotho adds disability as a specific ground for discrimination in recognition of the widespread discrimination faced by persons with disability in Lesotho. The Principles of State Policy in the Constitution of Lesotho² make provision for the rehabilitation, training and social resettlement of disabled persons. The Principles of State Policy are not enforceable by courts of law but are implemented by policy and are intended to guide and agencies of Lesotho in performance of their functions. Protection of the rights of disabled persons is required in the form of a disability equity law which will domesticate the provisions of the UNCRPD ensuring that Lesotho lives up to its obligations under international law.

¹ Lesotho Constitution 1993 chapter II section 4(1)

² Lesotho Constitution 1993 section 25,33

2.1 LEGISLATION

There are several laws that recognise the rights of disabled persons such as the National Assembly Electoral Amendment Act 2011³ which requires that persons with disabilities be taken into account in political platforms and electoral processes (elections, rallies). However in this Act persons with mental disabilities are denied their right to participate in the electoral process due to a lack of mental capacity. The Children's Protection and Welfare Act of 2011 also specifically provides in its discrimination clause⁴ that children with disabilities shall not be discriminated against and section 13 makes specific reference to the rights of children with disabilities such as the right to dignity and the right to education.

LNFOOD wishes to note the provisions of section 219 of the Criminal Procedure and Evidence Act 1981 which discriminate against persons with mental capacity by not requiring evaluation of mental capacity before evidence is taken to be inadmissible. This section constitutes a gross violation of the right to access justice and equality before the law of persons with mental disability. It amounts to a violation of Lesotho's obligations under the UNCRPD. LNFOOD calls upon the government of Lesotho to review and amend these provisions all other discriminatory provisions in laws in Lesotho.

At policy level recognition of the rights of persons with disability is found in the National Strategic Development Plan where disability is included as a crosscutting issue and in the Social Development Policy which aims at ensuring the social inclusion of persons with disability. However the monitoring and evaluation frameworks of the abovementioned policies do not have disability specific indicators making it difficult to track progress on the policy objectives related to disability.

Lesotho adopted the National Disability and Rehabilitation Policy in 2011 whose aim is to ensure the meaningful inclusion of persons with disabilities in mainstream society. However LNFOOD reports that there is a lack of directives and guidelines on the implementation of the policy which leads to a lack of clear and effective

³ National Assembly Electoral Amendment Act 2011 section 30

⁴ Childrens Protection and Welfare Act 2011 clause 6

implementation of this policy. Ever since its adoption parliament has not adopted a budget for its implantation which contributes to the slow implementation of this policy.

3. INSTITUTIONAL AND HUMAN RIGHTS INFRASTRUCTURE FOR DISABILITY RIGHTS

3.1 The courts: The High Court in Lesotho is given authority by the Constitution to determine violation of fundamental human rights and freedoms.⁵ There are no Constitutional cases determining the rights of disabled persons due to a lack of knowledge on disability and human rights by disabled persons and a lack of supportive services to assist some disabled persons to effectively access the court system. Sign language interpreters, psychologist to support persons are not easily accessible.

3.2 Parliament: LNFOD has successfully held meetings with the Parliamentary Portfolio Committee on the Social Cluster on the domestication of the UNCRPD. There has been a positive response in that the responsible section for drafting has been called upon to show the first draft of the Disability Equity Bill in June. However the government is still urged to ensure the timely enactment of this law which is long overdue as Lesotho ratified the UNCRPD in 2008 committing itself to the drafting of disability specific legislation.

3.3 National human rights institutions: Although preparations are advanced for the establishment of the National Human Rights Commission such Commission has not yet been established. However the Human Rights Unit of the Justice and Human Rights Ministry is spearheading the development of the National Human Rights Policy in which process LNFOD has been fully consulted in the inclusion of disability issues in the policy.

⁵ Constitution of Lesotho 1993 section 22 (2)

4. PROMOTION AND PROTECTION OF HUMAN RIGHTS ON THE GROUND

4.1 Cooperation with Human Rights Mechanism

Lesotho has to date not submitted a state report on the UN Convention on the Rights of Persons with Disability since ratification of the Convention in December 2, 2008. We urge Lesotho to submit a state report to the relevant Committee on the state of disability rights in Lesotho.

4.2 Specific rights

4.2.1 The right to work and just, favourable conditions of work

In Lesotho both the Labour Code 1992 and employment policies within government provide no specific reference to the employment of persons with disability. There are in addition no strategies employed by government to ensure the employment of persons with disability such as quotas for the employment of persons with disability or tax rebates offered to private businesses which employ persons with disability. We urge the Government of Lesotho to adopt a national code of good practice for the employment of persons with disability, to amend the labour code to reflect the rights of persons with disability to and in employment and to adopt mechanisms to promote the employment of persons with disability in Lesotho. Studies show that in Lesotho there is a low employment rate amongst the disabled.⁶

The Ministry of Forestry and Land Reclamation did not involve people with disabilities in the poverty alleviation projects on the basis that they are sick and can therefore not cope with the labour intensive methods used in the projects. Following the awareness raising initiatives undertaken by LNFOD there has been a tremendous change in this practice. There is now a requirement that each group of the labour force in these projects include a number of people with disabilities.

4.2.2 Right to social security and adequate standard of living

There is to date no social protection provision for persons with disability as a vulnerable group. Of the 3.7% of the population which are disabled persons⁷, there

⁶ SINTEF Living conditions study Lesotho p 67

⁷ Lesotho Census Report 2006

are persons with disability whom the severity and magnitude of their disability leave them vulnerable and who require assistance from government in the form of a social protection grant. We urge the government of Lesotho to research the need for this grant and take steps towards the establishment of this grant for the severely disabled persons.

4.2.3 Right to education

There is generally lower school attendance and literacy rates among disabled persons.⁸ The Lesotho College of Education and the Faculty of Education at the National University of Lesotho have introduced the Special Education Programmes following the advocacy efforts by LNFOD and its affiliates.

Supportive services are needed to ensure that indeed persons with disability access education as the right of all Basotho as per the Education Act 2010. We urge the government of Lesotho to ensure the employment of sign language interpreters, the brailing of relevant reading material for students with visual disability and the provision of assistive technology where required in line with the INCRPD.

5. Conclusion and Summary of Key recommendations

Whilst the adoption of a National Disability Policy is seen as a big development for Lesotho, political commitment towards disability issues and the requisite financial support for disability programmes as well as a disability specific legislation are still major concerns of organizations of persons with disability in Lesotho. Below is a summary of the key recommendations from LNFOD and its affiliates:

1. The Government should ratify the Optional Protocol to the UNCRPD
2. The Government should enact the disability equity law in line with the UNCRPD
3. The implementation plan for the Disability and Rehabilitation Policy is needed urgently. The government should include a budget for the implementation of the Disability Policy.

⁸ SINTEF Living Conditions Study Lesotho P85

4. Government should undertake holistic sensitization on disability rights. The government should appoint train and support disability focal persons for all government ministries.
5. Discriminatory laws should be amended or repealed.
6. Strategies to ensure employment of disabled persons, disaggregation of data on disability is needed to ensure access to employment for disabled persons.
7. Government to adopt a disability grant responding to the needs of the severely disabled.
8. Government should support inclusive education and ensure that supportive services and devices are available to ensure de facto realisation of the right to education.
9. Government should submit a state report on the rights of the disabled in line with its commitment under the UNCRPD.